IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

THURSDAY, THE 21ST JUNE 2007 / 31ST JYAISHTA 1929

OP.No. 31054 of 2000(V)

PETITIONER:

SMT. KUSHI BAI,
JUNIOR PUBLIC HEALTH NURSE,
VALIYAVILA PUTHEN VEEDU,
T.C.11/656, VENGODE P.O.
(VIA) VATTAPPARA, NOW RESIDING AT THOPPIL VEEDU,
PANDIT'S COLONY, KAWDIAR P.O.,
THIRUVANANTHAPURAM.

BY ADV. SRI.VELLAYANI ROBINSON

RESPONDENTS:
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1. **DIRECTOR OF MUNICIPALITIES (ADMINISTRATION),**
   DIRECTORATE OF MUNICIPALITIES,
   THIRUVANANTHAPURAM.

2. **SECRETARY,**
   THIRUVANANTHAPURAM CORPORATION,
   THIRUVANANTHAPURAM.

3. **HEALTH OFFICER,**
   THIRUVANANTHAPURAM CORPORATION,
   THIRUVANANTHAPURAM.

BY ADV. SRI.N.NANDAKUMARA MENON,SC,TVM CORPN. For R2 & R3
BY GOVERNMENT PLEADER SMT. T.B.RAMANI for R1

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 21/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P.NO.52752/2000 IN O.P.NO.31054/2000 V

DISMISSED

21/06/2007 **SD/-THOTTATHIL B.RADHAKRISHNAN,**
J U D G E.

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE MEMO OF CHARGES DTD. 23/10/1998.**

EXT.P2: **COPY OF THE WRITTEN EXPLANATION FURNISHED BY THE PETITIONER ON 28/12/1998.**

EXT.P3: **COPY OF THE ORDER ISSUED BY THE 2ND RESPONDENT DTD. 29/01/1999.**

EXT.P4: **COPY OF THE MEMO DTD. 06/07/1999.**

EXT.P5: **COPY OF THE STATEMENT OF EXPLANATION OFFERED BY THE PETITIONER DTD. 28/07/1999.**

EXT.P6: **COPY OF THE COMMUNICATION RECEIVED BY THE PETITIONER DTD. 25/10/999.**

EXT.P7: **COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT ON 07/01/2000.**

EXT.P8: **COPY OF THE ORDER OF 1ST RESPONDENT DTD. 31/08/2000.**

EXT.P9SERIES: **COPY OF THE DOCUMENT EVIDENCING THE FILING OF LEAVE APPLICATION AS WELL AS THE PRODUCTION OF MEDICAL CERTIFICATES.**

/TRUE COPY/

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THOTTATHIL B. RADHAKRISHNAN, J.

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O.P.No.31054 of 2000-V

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Dated this the 21st day of June, 2007.

JUDGMENT

Government Pleader takes notice for the first respondent.

2. The petitioner, an employee of the Thiruvananthapuram Corporation, was subjected to disciplinary proceedings on the ground of unauthorised absence. The punishment of barring of two increments with cumulative effect was imposed on her. She carried an appeal to the Director of Municipalities.

3. I have heard the learned counsel for the Corporation and the learned Government Pleader on behalf of the first respondent.

4. The impact of imposition of penalty of barring of two increments with cumulative effect required appropriate consideration of her appeal by the Director of Municipalities. Unfortunately, Ext.P8 reflects no consideration. The mere

statement that the file has been perused and that the punishment imposed is proper, is not the way in which a statutory appeal is to be disposed of, particularly, when the decision results in adverse civil consequences.

5. The facts of the case are not being referred to, having regard to the nature of the order being issued hereunder.

The impugned Ext.P8 appellate order is quashed and the first respondent is directed to reconsider Ext.P7 appeal after affording the petitioner an opportunity of being heard and after considering the entire relevant matters. In the event of the decision being against the interest of the petitioner, reasons shall be stated in the order. A final decision shall be taken as afore-directed within two months from the date of receipt of a copy of this judgment since it is stated that the petitioner has already retired from service and that she is hospitalised and needs immediate attention.

THOTTATHIL B. RADHAKRISHNAN,
JUDGE.

Sha/-

THOTTATHIL B. RADHAKRISHNAN, J.

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O.P.No. 31054 of 2000-V

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JUDGMENT

Dated: 21st June, 2007.